

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY WHALEY,
Petitioner,

v.

DAVID BYRNE, et al.
Respondents.

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CIVIL ACTION

NO. 21-cv-394

ORDER

AND NOW, this 18th day of August, 2021, upon careful and independent consideration of the petition for a writ of habeas corpus filed pursuant to [28 U.S.C. § 2254](#), and after review of the Report and Recommendation of United States Magistrate Judge Lynne A. Sitarski, IT IS ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED.
2. The petition for habeas corpus filed pursuant to [28 U.S.C. § 2254](#) is
DISMISSED WITHOUT PREJUDICE.
3. There is no basis for the issuance of a certificate of appealability.

BY THE COURT:

/s/ Harvey Bartle III

HARVEY BARTLE, III, J.